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2011 WORKERS' COMPENSATION LEGISLATIVE CHANGES

This is a general overview of workers' compensation legislation passed by the 107th General Assembly. For a complete, detailed review of this information and all workers' compensation bills introduced in this legislative session, please go to www.legislature.state.tn.us.

MAXIMUM & MINIMUM BENEFIT CHANGES

Temporary Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2011 through June 30, 2012 is \$867.90 or 110% of the state's average weekly wage.

Permanent Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2011 through June 30, 2012 is \$789.00 or 100% of the state's average weekly wage.

Minimum Weekly Benefit – The minimum weekly benefit rate for injuries occurring July 1, 2011 through June 30, 2012 for both temporary and permanent benefits is \$118.35.

FUTURE MEDICAL BENEFITS, *OVERSTREET*, REDEFINITION OF INJURY

Public Chapter 416 (HB1503/SB0932) makes various revisions to the workers' compensation law. This bill allows the parties to a workers' compensation case to settle a claim, subject to the approval of a trial judge or a workers' compensation specialist, without future medical benefits. It modifies the *Overstreet* communication procedures regarding contact between the authorized treating physician and employers on the workers' compensation injury. This bill clarifies the definition of an injury and occupational disease. It clarifies that hearing loss, carpal tunnel and repetitive injury claims are compensable only if the condition primarily arises out of and in the scope of employment. This bill is effective for injuries occurring on or after June 6, 2011.

DRUG FREE WORKPLACE

Public Chapter 203 (HB2047/SB1785) changes the evidence standard from a preponderance of the evidence to clear and convincing evidence for rebutting the presumption that drugs or alcohol were the proximate cause of an injury from a positive drug test result or the refusal to submit to a drug test. This bill becomes effective on July 1, 2011.

**CONSTRUCTION INDUSTRY EXEMPTION FROM
OBTAINING WORKERS' COMPENSATION INSURANCE**

Public Chapter 422 (HB2030/SB1550) revises various provisions of present workers' compensation law regarding construction services providers. This bill clarifies that the general contractor of a commercial construction project may select the three individual construction services providers who may be exempt from workers' compensation coverage while working on that commercial construction project. This bill increases the amount of owners of a family owned business and corporate officers eligible for an exemption from the requirements that they be covered by workers' compensation insurance to five. It allows members of a limited liability company and partners in a limited, limited liability, or general partnership with at least 20% ownership to be eligible for the exemption. It also allows an individual to obtain more than one exemption if the individual is affiliated with multiple companies. This bill becomes effective on October 1, 2011. Information about the Secretary of State's Workers' Compensation Exemption Registry may be found on their website at <http://tnbear.tn.gov/wc> .